

## **§ 633.12**

(d) The signatories to the agreement prior to the change of ownership or operation shall be jointly and severally responsible for refunding the unearned payments previously made.

### **§ 633.12 Termination of agreements.**

(a) The State Conservationist may, by mutual agreement with the parties to the agreement, consent to the termination of the agreement where:

(1) The parties to the agreement are unable to comply with the terms of the agreement as the result of conditions beyond their control;

(2) Compliance with the terms of the agreement would work a severe hardship on the parties to the agreement; or

(3) Termination of the agreement would be in the public interest.

(b) If an agreement is terminated in accordance with the provisions of this section, the annual payment for the year in which the agreement is terminated shall not be considered to have been earned unless there is compliance with the terms and conditions of the agreement for the entire calendar year.

### **§ 633.13 Violations and remedies.**

(a) In the event of a violation of an agreement or any associated conservation plan, the parties to the agreement shall be given reasonable notice and an opportunity to voluntarily correct the violation within 30 days of the date of the notice, or such additional time as the State Conservationist may allow.

(b) In addition to any and all legal and equitable remedies as may be available to the NRCS under applicable law, the NRCS may withhold any annual or cost-share payments owing to the parties of the agreement at any time there is a material breach of the agreement or any conservation plan. Such withheld funds may be used to offset costs incurred by the NRCS in any remedial actions or retained as damages pursuant to court order or settlement agreement.

(c) The NRCS shall be entitled to recover any and all administrative and legal costs, including attorney's fees or expenses, associated with any enforcement or remedial action.

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### **§ 633.14 Debt collection.**

Any debts arising under this program are governed with respect to their collection by the Federal Claims Collection Act of 1966 (31 U.S.C. 3701) and the regulations found in 4 CFR chapter II.

### **§ 633.15 Payments not subject to claims.**

(a) Any payments due any person shall be determined and allowed without regard to State land and without regard to any claim or lien against any crop, or proceeds thereof, which may be asserted by any creditor, except as provided in paragraph (b) of this section.

(b) The regulations governing setoffs and withholdings, in part 13 of this title, as amended, shall be applicable to this program.

### **§ 633.16 Assignments.**

Any person entitled to any cash payment under this program may assign the right to receive such cash payments, in whole or in part.

### **§ 633.17 Appeals.**

(a) Any person may obtain reconsideration and review of determinations affecting participation in this program in accordance with part 614 of this chapter.

(b) Before a person may seek judicial review of any action taken under this part, the person must exhaust all administrative appeal procedures set forth in paragraph (a) of this section, and for purposes of judicial review, no decision shall be a final agency action except a decision of the Chief of NRCS under these procedures.

### **§ 633.18 Scheme and device.**

(a) If it is determined by the NRCS that a person has employed a scheme or device to defeat the purposes of this part, any part of any program payment otherwise due or paid such person during the applicable period may be withheld or be required to be refunded with interest thereon, as determined appropriate by the NRCS.

(b) A scheme or device includes, but is not limited to, coercion, fraud, misrepresentation, depriving any other person of an annual payment or payments for cost-share practices for the